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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,958	02/17/2004	Yutaka Sekine	F-8147	9506
28107 7590 08/22/2007 JORDAN AND HAMBURG LLP 122 EAST 42ND STREET SUITE 4000 NEW YORK, NY 10168			EXAMINER FICK, ANTHONY D	
			ART UNIT 1753	PAPER NUMBER
			MAIL DATE 08/22/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/779,958	Applicant(s) SEKINE, YUTAKA	
	Examiner Anthony Fick	Art Unit 1753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.138(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/17/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Specification***

2. The abstract of the disclosure is objected to because of undue length. Correction is required. See MPEP § 608.01(b).
3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 1753

5. Claims 1 through 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abe et al. (U.S. 6,055,068).

Abe discloses an apparatus with energy conserving features as shown in figure 2.

Regarding claim 1, the figure shows a first power supply means provided with a solar cell for generating electrical power from the sun, 23, a battery section for storing the power from the solar cell, 19, a second power supply means from an industrial or domestic power supply, switching power supply 16 shown in figure 3, and a switching means for supplying power from the first power supply or the second power supply and switching the power supply when the solar cell power is below a predetermined level, microprocessor 17 (see column 5, lines 12-67).

Regarding claim 2, Abe discloses determining in the microprocessor the voltage of the solar cell (column 5, lines 51-61).

Regarding claims 3 and 4, figure 2 shows a primary battery, 28 and a secondary battery, 19, that can maintain power even during the switching between the first power supply, 23, and the second, 16.

Regarding claims 5 and 6, Abe discloses that element 19, a secondary battery, is a capacitor type battery (column 5, line 15), and the element stores charge from either the first or second power supply (column 5, lines 26-50).

The difference between Abe and claim 1 is the requirement for the solar cell power supply to be given priority. This limitation appears to be a process limitation and

Art Unit: 1753

not a structural limitation in the claim. However if this limitation implies structure, as the priority of Abe is different than the claims, the structure is then different.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to alter the priority of the device of Abe to give priority to the solar cell instead of the domestic power supply because the solar energy is renewable and free and use of more solar energy will reduce the operational costs of the device. It is the position of the examiner that the device of Abe is already able to make such a change in priority by simply changing a setting within the microprocessor, 17, and one of ordinary skill would make such a change to gain the benefits stated above for solar energy. Thus claims 1 through 3 are obvious over Abe.

The difference between Abe and claims 4 through 6 is the requirement of a separate battery for the solar cell and the switching means. Abe does disclose the secondary battery, 19, that can be considered as part of the switching means to maintain power or the battery to store electrical power from the solar cell, and a primary battery, 28. However, the claims appear to require the battery of the solar cell to be separate from the battery of the backup section.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a battery with the solar cell of Abe as an additional storage location because it is very common in the art to utilize batteries with solar cells to store charge for the lengths of time when the sun is not shining on the solar cell. Thus one of ordinary skill would include additional batteries to provide a backup function

Art Unit: 1753


for the solar cell and to provide the device with further power options. Thus claims 4 through 6 are also obvious over Abe.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Fick whose telephone number is (571) 272-6393. The examiner can normally be reached on Monday - Friday 7 AM to 4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam Nguyen can be reached on (571) 272-1342. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anthony Fick *ADF*  
AU 1753  
August 17, 2007

  
NAM NGUYEN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700